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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

STEVEN M. SCHIFFMAN)
TROPICAL PARADISE LTD)
65 TEHAMA STREET)
BROOKLYN, NEW YORK 11218)

PETITIONERS

PETITION TO RE-ALLOCATE CHANNEL 3
IN KEY WEST, FLORIDA, TO THAT OF
FULL-POWER ALLOCATED CHANNEL 3.

FEDERAL COMMUNICATIONS COMMISSION)
WASHINGTON, DC)

RESPONDENTS

INTRODUCTION

On this 12th day of July 1993, the petitioners hereby submit the following petition for consideration by the Federal Communications Commission.

RELIEF SOUGHT

On behalf of the Petitioners as well as on behalf of the People of Key West and Monroe County, Florida, it is hereby being requested that the Federal Communications Commission (hereafter "FCC") administratively, or in the alternative by means of proposed rule-making, re-allocate Channel Three (3), 60-66 Mhz, as a FULL POWER television channel. Channel 3 was originally one of two VHF channels allocated to Key West in Monroe County. Due to subsequent objections by the U.S. Department of Defense (via the U.S. Navy, in particular) on account of interference to the Navy's intelligence monitoring equipment, the FCC removed Channel 3 from the Tables of allocated channels for Key West, Fl. Now, because of advancements in the field of telecommunications, the U.S. Navy is no longer using equipment which is sensitive to the 60-66 Mhz bandwidth, and has indicated to the Petitioners that the U.S. Navy has no current objections to the use of Channel 3 as a FULL POWER television channel in Key West, Florida.

CURRENT STATUS OF CHANNEL THREE IN KEY WEST

Currently, Channel 3 is licensed to *Tropical Paradise Ltd (W03BG)*, in the form of a Construction Permit (CP) to operate a Low Power Television (LPTV) station in the Key West, Florida television market. Attached is a copy of the current CP for Channel 3 issued by the FCC.

The subsequent granting of the CP to *W03BG* by the FCC was made following consultation with and subsequent approval by the U.S. Department of Defense in general, and the U.S. Navy in particular.

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RATIONALE FOR RELIEF BEING SOUGHT BY PETITIONERS

Given the above facts, it is the wish, desire and goal of *TROPICAL PARADISE LTD* to upgrade its LPTV permit to that of FULL POWER status in order to serve the viewers of Key West and the Florida Keys with a better quality signal and to obtain the legal status required for "must carry" on the local cable television system. While in most markets access to cable television is deemed supplemental, in the market of Key West and the Lower Keys it is virtually an economic necessity since the islands are approximately 150 miles from Miami, Florida, the source of all but one on-air television stations being viewed in Key West and the Florida Keys.

ARGUEMENTS IN FAVOR OF RELIEF SOUGHT

Under the original FCC Table of Allocations for FULL POWER television stations, Key West, Florida was granted three (3) FULL POWER channels, two of which were to be for commercial broadcast, to wit, Channels 3 and 22; and one channel reserved for educational/non-commercial broadcast, to wit, Channel 13.

Because of the needs of the U.S. Department of State, Channel 13 was obtained for purposes of Television Marti and thus was not made available to the people of Key West and the lower Keys. In terms of Channel 3, the Navy, *supra*, decided that their monitoring equipment would have been compromised due to the use of Channel 3 as a local broadcasting service, and thus the Channel was removed from the Table of Allocations. In its place, the FCC allocated Channel 8, which recently was made available for Public television via its being licensed to the non-commercial, *non-profit* Florida Keys Educational Broadcasting Inc which was assigned the call letters, *WWFD-tv*.

From a legal standpoint, it can be stated that in this specific instance, the removal of Channel 13 from the people of Key West has now been made whole again vis-a-vis the original intention of the FCC to allocate Key West with its own non-commercial television station by its actions of licensing Channel 8 to *WWFD/Florida Keys Educational Broadcasting Inc*.

However, the status quo still leaves the public-at-large in Key West and the people in the Lower keys without a second commercial FULL POWER television station.

With the re-allocation of Channel 3 to the people of Key West and the Lower Keys, and with the subsequent upgrading, pending FCC approval, of *W03BG* to that of FULL POWER status, the people of Key West and the Lower Keys will have been made whole again, in its entirety. This is based on the original actions of the FCC which mandated that Key West and the Lower Keys have its two FULL POWER commercial stations, to wit, Channels 3 and 22, and its one FULL POWER non-commercial television station, that of Channel 8, *WWFD/Florida Keys Educational Broadcasting Inc*.

SUITABILITY OF CHANNEL 3

Excluding LPTV stations and limiting the issue to just FULL POWER television stations, the FCC originally allocated Channel 3 to Key West, Florida because of the remote and highly unlikely possibility of causing co-channel interference to *WEDU-tv3*, in Tampa, Florida, a non-commercial television station located in a market in excess of 300 km/200 miles from Key West.

Should the FCC approve this petition and re-allocate Channel 3 to FULL POWER status in Key West, Florida, it is highly unlikely that Channel 3 in Key West will result in any possible co-channel interference to pre-existing Channel 3 in Tampa, Florida.

Thus the only outstanding issue to be resolved is that of possible interference by a FULL POWER channel 3 in Key West vis-a-vis sensitive military telecommunications equipment due to Key West's geographic proximity to Cuba.

Based on preliminary talks with U.S. Navy officials in Key West, Florida, it was their collective, unofficial, opinion that re-allocating Channel 3 as a FULL POWER television station would NOT cause or result in any immediate or potential long-term interference with the U.S. Department of Defense's intelligence gathering operations vis-a-vis Cuba.

Naturally, if required, such a re-allocation might possibly cause problems if the signal was aimed southward towards Cuba, the re-allocation could be given with the caveat or restriction that the signal must be directionalized away from Cuba. Such a restriction, based on consultations with U.S. Navy officials in Key West indicate, would probably NOT be required and thus would NOT be forthcoming as a condition for re-allocating channel 3 to that of FULL POWER status.

In this context, it is important to note that the U.S. Department of Defense has already been consulted by the FCC, and has given its approval for use of Channel 3 as a LPTV station with the LPTV transmitter and antenna (at a height of 57 meters) being situated just a few hundred meters from existing Naval telecommunications equipment in Key West, Florida.

CONCLUSION

In summary and conclusion, Petitioners are requesting that the FCC re-allocate Channel 3 in Key West, Florida to that of FULL POWER status on the legal grounds that:

1. The FCC had originally allocated Key West, Florida with two commercial FULL POWER television stations and presently there is only one FULL POWER television station allocated and licensed for commercial use in Key West, Florida;
2. The objections of the U.S. Department of Defense for use of Channel 3 as a FULL POWER station no longer exists; and,
3. The FCC has licensed non-commercial WWFD-tv8 as an educational television station, thus DE FACTO substituting Channel 13's allocation as a non commercial FULL POWER station with that of Channel 8 in Key West, Florida.

In conclusion, while Channel 13 is still being actively used by the U.S. Department of State, thus pre-empting the FCC's allocation of channels in Key West, Florida, the condition which originally had caused the removal of Channel 3 as an allocated Channel no longer exists, and thus Channel 3 should revert back to its original status as determined initially by the FCC, to wit, a FULL POWER allocated channel.


Steven Mitchell Schiffman


Date

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FEDERAL COMMUNICATIONS COMMISSION



LOW POWER TELEVISION / TELEVISION TRANSLATOR
BROADCAST STATION CONSTRUCTION PERMIT

Official Mailing Address:

TROPICAL PARADISE, LTD.
18 EAST 41ST ST STE 1605
NEW YORK, NY 10017

Authorizing Official:

Keith A. Larson
Chief, LPTV Branch
Video Services Division
Mass Media Bureau

Grant Date: November 19, 1992

Call sign: W03BG

This permit expires 3:00 am.
local time: May 19, 1994

Permit File No.: BPTVL-910502QS

This authorization re-issued to reflect corrected address

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

This permit shall be automatically forfeited if the station is not ready for operation within the time specified (date of expiration) or within such further time as the Commission may allow, unless completion of the station is prevented by causes not under the control of the permittee. See Sections 73.3598, 73.3599 and 73.3534 of the Commission's Rules.

Equipment and program tests shall be conducted only pursuant to Sections 74.13 and 74.14 of the Commission's Rules.

Name of permittee:

TROPICAL PARADISE, LTD.

Station Location:

FL-KEY WEST

Frequency (MHz): 60.0 - 66.0 Offset: None

Channel: 3

Call sign: W03BG

Permit No.: BPTVL-910502QS

Hours of Operation: Unlimited

Transmitter location (address or description):

527 SOUTHARD STREET, KEY WEST, FL

Transmitter: Type accepted. See Section 74.750 of the Commission's Rules.

Antenna type: (directional or non-directional): Directional

Desc: VERTICAL STACK OF FIVE SCALA HDCA-10

Major lobe directions (degrees true): 90.0

Antenna coordinates: North Latitude: 24 33 19.0

West Longitude: 81 48 6.0

Transmitter output power (Visual) : .010 kW

Maximum effective radiated power (Visual) : .262 kW

Height of radiation center above ground : 54.0 Meters

Height of radiation center above mean sea level : 57.0 Meters

Overall height of antenna structure above ground (including obstruction
lighting, if any) : 61.0 meters

Obstruction marking and lighting specifications for antenna
structure:

It is to be expressly understood that the issuance of these specifications
is in no way to be considered as precluding additional or modified marking
or lighting as may hereafter be required under the provisions of Section
303(q) of the Communications Act of 1934, as amended.

Paragraph 1.0, FCC Form 715 (March 1978):

Antenna structures shall be painted throughout their height with
alternate bands of aviation surface orange and white, terminating with
aviation surface orange bands at both top and bottom. The width of the
bands shall be equal and approximately one-seventh the height of the
structure, provided however, that the bands shall not be more than 100
feet nor less than 1 and 1/2 feet in width. All towers shall be
cleaned and repainted as often as necessary to maintain good
visibility.